

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION)	
)	JUDGE POLSTER
THIS DOCUMENT RELATES TO:)	
)	
Case No. 1:19-op-45278-DAP)	
Case No. 1:21-op-45080-DAP)	
)	ORDER TO SHOW CAUSE
)	REGARDING THE MOTION TO DISMISS
)	AT DOCKET NO. 4674

After certain Defendants entered Settlement Agreements reaching global resolution of all opioid litigation filed by governmental entities, the Defendants filed a motion to dismiss all claims filed against them by Plaintiffs The Hospital Authority of Wayne County, Georgia and Bibb County School District. *See* docket no. 4674. The basis for the motion was that these claims were barred by Georgia statute – specifically, O.C.G.A. § 10-13B-1, *et seq.*, which “bar[s] any and all past, present or future claims on behalf of any governmental entity seeking to recover against any business or person that is a released entity under the terms of the relevant settlement.”

In response, Plaintiffs challenged the constitutionality of the Georgia statute. *See* docket no. 4695. To obtain a quick and final answer on this issue, this Court certified two questions to the Georgia Supreme Court. *See* docket no. 4799. The first question was: “Does the Hospital Authority of Wayne County, Georgia have the legal authority to challenge the constitutionality of O.C.G.A. § 10-13B- 1, *et seq.*?” *Id.* at 2. The Georgia Supreme Court recently answered this question as

follows:

[W]e conclude that the General Assembly's passage of the preemption provision [in the statute] took away any power HAWC otherwise may have had under OCGA § 31-7-75 to pursue claims that the preemption provision and the Settlement Act are unconstitutional, and the answer to the first question certified by the District Court is no.

Hosp. Auth. of Wayne Cty. v. AmerisourceBergen Drug Corp., 2023 WL 5337867, at *4 (Ga. Aug. 21, 2023).

Accordingly, this Court intends to grant the original motion to dismiss. The Court will enter the proposed order supplied by Defendants at docket no. 4674-1 unless Plaintiffs **show cause**, on or before noon on September 1, 2023, why the Court should not do so.

IT IS SO ORDERED.

/s/ *Dan Aaron Polster*

DAN AARON POLSTER

UNITED STATES DISTRICT JUDGE

Dated: August 28, 2023